Tiffany (NJ) Inc. et al v. eBay Inc. Doc. 16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIFFANY (NJ) INC. and TIFFANY AND COMPANY, Plaintiffs, v. eBAY INC., Defendant.	04 Civ. 4607 (NRB)

DECLARATION OF R. BRUCE RICH IN SUPPORT OF EBAY'S MOTION TO AMEND ITS ANSWER

I, R. BRUCE RICH, declare as follows:

1. I am admitted to practice before this Court and am a partner with the firm of Weil, Gotshal & Manges LLP, which represents eBay Inc. ("eBay") in the above captioned matter.

2. I submit this declaration in support of eBay's motion to amend its Answer.

3. Annexed hereto as Exhibit A is a true and accurate copy of eBay's Proposed Amended Answer, dated August 11, 2005.

4. Annexed hereto as Exhibit B are true and accurate copies of selected email correspondence between Tiffany employees, Ewa Zalewska and John Pollard, and eBay users. These documents were produced by Tiffany at TCO 43623, 154, 39636-37 and 39082-84.

5. Annexed hereto as Exhibit C are true and accurate copies of selected email correspondence from Ewa Zalewska to eBay users concerning the purported repercussions of

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selling counterfeit merchandise bearing the Tiffany marks. These documents were produced by Tiffany at TCO 12281-82 and 24100.

6. Annexed hereto as Exhibit D are true and accurate copies of selected emails to Tiffany personnel from eBay users, which were produced by Tiffany at TCO 3437-40 and 31619-21.

7. Annexed hereto as Exhibit E are true and accurate copies of emails from Tiffany personnel to eBay users, which were produced by Tiffany at TCO 1711-12 and 32110-112.

8. Annexed hereto at Exhibit F is a true and accurate copy of portions of the transcript of Ms. Annamarie Sandecki's deposition, which took place on July 21, 2005.

9. Annexed hereto at Exhibit G are true and accurate copies of (1) Tiffany's "About Me" website, which was produced by eBay at EBAY 110862-63 and (2) a Tiffany advertisement from Bazaar Magazine.

10. Annexed hereto at Exhibit H is a true and accurate copy of a letter from Adam I. Cohen (counsel for eBay), to Peter H. Haveles Jr. (counsel for Tiffany), dated May 3, 2005. The Rule 30(b)(6) deposition notice, which accompanied the letter, is omitted.

11. Annexed hereto as Exhibit I, is a true and accurate copy of a letter from Peter H. Haveles Jr. (counsel for Tiffany) to Adam I. Cohen (counsel for eBay), dated May 6, 2005.

12. Annexed hereto as Exhibit J, is a true and accurate copy of a letter from Adam I. Cohen (counsel for eBay) to the Court, dated June 17, 2005.

13. Annexed hereto at Exhibit K is a true and accurate copy of portions of the transcript of Ms. Ewa Zalewska's deposition, which took place on July 20, 2005.

14. Annexed hereto at Exhibit L is a true and accurate copy of portions of Tiffany's Form 10-K for the fiscal years ended January 21, 2000 and January 31, 2004 (obtained at www.sec.gov).

15. Annexed hereto at Exhibit M is a true and accurate copy of a letter from Peter H. Haveles Jr. (counsel for Tiffany) to the Court, dated June 24, 2005.

16. I declare under penalty of perjury that the foregoing is true and correct.

Executed: August 11, 2005
New York, New York

By: ______________________
R. Bruce Rich